

EXHIBIT B

FILED

AUG 27 2020

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE WASHINGTON

IN AND FOR THE COUNTY OF SPOKANE

COLBY THOMASON,

Plaintiff,

vs.

WALMART INC.; a Multinational Retail
Corporation,

Defendant.

20202349-32

NO.

COMPLAINT FOR DAMAGES

Comes now the above-named Plaintiff COLBY THOMASON, by and through his attorneys of record, Roger J. Ermola, II and Craig Swapp & Associates, PLLC, and for causes of action against the above-named defendant, complains and alleges as follows:

I. PARTIES, JURISDICTION AND VENUE

1.1 At all times relevant hereto Plaintiff COLBY THOMASON was a resident of Spokane County, Washington.

1.2 Based upon information and belief after reasonable inquiry, it is alleged that, at all times relevant and material, defendant WALMART INC. was a multinational retail corporation doing business in Spokane County, Washington.

1.3 All acts complained of herein occurred in Spokane County, Washington.

Complaint For Damages -1-

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pursuant to RCW 4.12.020 and RCW 4.12.025.

II. FACTS

2.1 On or about June 15, 2019, plaintiff COLBY THOMASON was shopping at Walmart Supercenter Facility #2549 located at 2675 E. Lincoln Avenue, Sunnyside, WA 98944.

2.2 On the date and location referenced above, Walmart Supercenter Facility #2549 was owned and operated by defendant WALMART INC.

2.3 On the date and location referenced above, plaintiff COLBY THOMASON was lifting ice he had purchased from a wooden pallet when an employee caused the pallet to drop on his foot.

2.4 On the date and location referenced above, as a result of the pallet dropping on plaintiff COLBY THOMASON's foot, plaintiff COLBY THOMASON sustained traumatic injuries.

III. DUTY, BREACH AND PROXIMATE CAUSE

3.1 At the time and location of the incident complained of herein, defendant, WALMART INC, through its employee by common law, statute, regulation and/or ordinance, owed duties of care in the operation of the pallet jack involved in the incident.

3.2. At the time and location of the incident complained of herein, defendant, WALMART INC. through common law, statute, regulation and/or ordinance, owed duties of including, but not limited to;

3.2(a) a duty to exercise ordinary care for the safety of its patrons,

1 3.2(b) a duty to exercise ordinary care for the operation of machinery,

2 3.2(c) a duty to take curative action when it has actual knowledge of a hazardous
3 condition,

4 3.2(c) a duty to take curative action when it has constructive knowledge of a
5 hazardous condition,

6 3.2(d) a duty to inspect for hazardous conditions,

7 3.2(e) a duty to have procedures that would reasonably prevent hazardous conditions
8 on the premises,

9 3.2(f) a duty to have procedures for the operation of hazardous machinery on the
10 premises,

11 3.2(g) a duty to warn patrons of hazardous conditions,

12 3.2(h) a duty to exercise ordinary care with respect to the ownership, management,
13 supervision, and/or maintenance of its machinery.

14 3.3 The duties listed in paragraphs 3.1 through 3.2(h) are for the safety and benefit
15 of persons on the premise, including plaintiff, COLBY THOMASON.

16 3.2 Defendant, WALMART INC., breached its duties as set forth above.

17 3.3 At the time of the incident complained of herein, plaintiff acted reasonably and
18 exercised ordinary care. Accordingly, plaintiff was not comparatively "at fault" for the
19 incident, or for injuries and damages that resulted therefrom.

20 3.4 Defendant, WALMART INC., is the only "at fault" person or entity, as that
21 term is defined in RCW 4.22.015, for the incident of June 15, 2019.

1 3.5 There are no non-party "at fault" persons or entities who are in any way a
2 percentage "at fault" for the incident of June 15, 2019.

3 3.6 Therefore, defendant, WALMART INC., is 100% liable for plaintiff's injuries
4 and damages that resulted therefrom.

5
6 **IV. DAMAGES**

7 4.1 As a direct and proximate cause of defendant, WALMART INC.'s negligence,
8 plaintiff has suffered, and will continue to suffer, economic and non-economic damages.

9 4.2 Plaintiff's injuries and damages are progressive and ongoing.

10 WHEREFORE, plaintiff prays for judgment to be entered against the defendant herein, to
11 justly compensate plaintiff for economic and non-economic damages, together with costs, pre-
12 judgment interest, reasonable attorney fees, and for such other and further relief as the Court
13 deems just and proper.

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17 DATED this 21st day of August 2020.

18 CRAIG SWAPP & ASSOCIATES

19
20 By:


21 ROGER J. ERMOLA, II, WSBA# 46228
22 Attorneys for Plaintiff